

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 30, 2019

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lakey, Vice Chairman Lee, Senators Lodge, Anthon, Thayn, Grow, Cheatham, Burgoyne, and Nye

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

RS 26545 **Barbara Jordan**, representing the Idaho Trial Lawyers Association, stated that **RS 26545** is a portion of the Small Lawsuit Resolution Act passed by the Idaho Legislature in 2002. This section would allow the parties who still need to go to trial after going through the process to enter into this trial de novo process but it does not increase the monetary amount from \$25,000 to \$35,000.

MOTION: **Senator Lee** moved to send **RS 26545** to print. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.

RS 26597 **Senator Lodge**, indicated that **RS 26597** is the Inmate Work Training Program, which is offered through Idaho Correctional Industries. This bill is a result of several years of work. The main goal of the program is to reduce recidivism. Statistics show that 70 percent of those who enter the criminal justice system will be back within the first three years after release. This work training program will create opportunities for inmates to get experience in the workplace atmosphere, the ability to pay the restitution costs, and court costs, and save for re-entry into society. Many problems faced by the inmates are a result of the costs they still have, and consequently they return to their old ways.

MOTION: **Senator Grow** moved to send **RS 26597** to print. **Senator Cheatham** seconded the motion. The motion passed by **voice vote**.

RS 26616 **Jason Spillman**, Legal Counsel for the Administrative Office of the Courts, Idaho Supreme Court, stated that **RS 26616** requests to add a district judge position for the 4th Judicial District. The last time a judge was added was in 2013, and since that time Ada County alone has grown 16 percent and the District Court case loads have increased proportionally. The costs associated with adding this position were included in the Administrative Office of the Court's budget presented to the Joint Finance and Appropriations Committee (JFAC).

Senator Lee asked why this bill was being printed before JFAC action was taken. **Mr. Spillman** responded that JFAC likes to see a bill progress through the process before it makes its recommendation.

MOTION: **Senator Burgoyne** moved to send **RS 26616** to print. **Senator Thayn** seconded the motion. The motion passed by **voice vote**.

- RS 26617** **Jason Spillman**, Legal Counsel for the Administrative Office of the Courts, Idaho Supreme Court, stated that **RS 26617** seeks to amend the section of Idaho Code currently requiring magistrate judges to attend a Magistrate Institute before they take office. Within their first year they are subject to four separate trainings. This RS seeks to change the requirement that new magistrates attend the Magistrate Institute within one year of taking the bench.
- MOTION:** **Senator Anthon** moved to send **RS 26617** to print. **Senator Burgoyne** seconded the motion. The motion passed by **voice vote**.
- S 1023** **Senator Dan Johnson**, District 6, indicated that **S 1023** changes the Idaho Code regarding assault and battery of Idaho Department of Parks and Recreation (IDPR) personnel. The director of the IDPR has the right to issue Idaho uniform citations and the authority to delegate that to other employees of IDPR. This is in line with employees of the Idaho Department of Water Resources personnel. A special class is not created. This bill brings these employees into compliance and consistency with the rest of the code. The code also states that if someone is in a uniform or has a badge of some sort, we need to respect that line of authority.
- MOTION:** **Senator Anthon** moved to send **S 1023** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion passed by **voice vote**.
- PRESENTATION:** **Monty Prow**, Director, Idaho Department of Juvenile Corrections (IDJC), stated that the mission of his department was to develop productive citizens and active partnership with communities. The State and the counties are partners working with justice-involved youth and their families. Prevention efforts are the best investment that can be made. Partnership is a cornerstone of juvenile justice in Idaho. To internalize value change, positive community transitions are required. IDJC funds are distributed to counties and local communities to support effective programming and a reintegration initiative which result in fewer commitments. Data supports treating youth in the least restrictive environment as possible. If youth are committed, research indicates that there are four strategies that contribute to them being successful. They include career technical education, independent living skills, education, and family engagement. The youth who do require the services of the IDJC have mental health issues that are three times greater than the general population. Trauma needs are four times greater than the general population and 47 percent of committed youth have a need for an Individual Education Program (IEP). IDJC has a good record of outcomes upon the youth's release. Ninety-seven percent of youth feel they have the skills necessary to establish positive relations in the community. **Director Prow** showed a video of the inside workings of one of their facilities. You may see it at <https://www.youtube.com/watch?v=mX13djE-tjY>. Those involved in working with the youth have the attitude of validating the juveniles that they are doing the best they can, but pushing and motivating them to do better (see Attachment 1).
- DISCUSSION:** **Vice Chairman Lee** and **Director Prow** held a discussion regarding recidivism rates and their measurement questions. **Director Prow** reiterated that nationally, there is no definition for recidivism. He indicated that Idaho has a 12-month post release from custody follow-up. He pointed out that they still need more help in the area of community transition support. **Director Prow** assured the Committee that their tracking system is data-driven and whatever information is needed could be provided.

PRESENTATION: **Eric Frederickson**, State Appellate Public Defender's Office (Office), explained that the Office was created for the purpose of providing relief to overburdened counties, providing competent counsel, and to avoid paying high hourly rates to employ independent counsel. The right to assistance of counsel in an appeal from a felony conviction is guaranteed by the United States and Idaho Constitutions. **Mr. Frederickson** discussed the types of cases his office works with and pointed out that workload is not measured by the number of cases, but by the complexity of cases. He also discussed the active death penalty litigation in Idaho and indicated that any first degree murder case up to a certain point in time could become a death penalty case (see Attachment 2).

S 1018 **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, stated that **S 1018** relates to contradictory language in the body of Idaho Code § 18-2509. It seems to expand application of the stated penalties to any violation of "this act." The act includes several crimes other than aiding escape with differing penalties. This amendment will clarify that the penalty provisions of § 18-2508, and not to the other prisoner escape crimes in Title 18, Chapter 25."

DISCUSSION: **Senator Burgoyne** commented that it might be time for classifications as either misdemeanors or felonies to be considered. He suggested that this may be an opportunity to put this in the 14th Order and do something about the sanction that is involved. **Mr. Frederickson** pointed out that there are two different levels of crime included in **S 1018**: an officer assisting in the escape, and a private person aiding escape, both of which can rise to the level of felonies.

Senator Lodge questioned some of the language of the bill. She asked if some of the words are even proper words in today's vernacular. **Senator Lodge** suggested **S 1018** should be held and the language cleaned up before sending it to the floor.

MOTION: **Senator Anthon** moved to send **S 1018** to the 14th Order of Business for possible amendment. **Senator Nye** seconded the motion.

DISCUSSION: **Senator Thayne** stated that he would be voting against the motion. **Senator Nye** explained that his reason for the second was to clean this up and strike the \$25 minimum. **Vice Chairman Lee** said that she supported the motion because it could be done very quickly and not create substantive changes. **Chairman Lakey** moved to send **S 1018** to the 14th Order of Business.

VOICE VOTE: The motion to send **S 1018** to the 14th Order of Business passed by **voice vote**. **Senator Thayne** requested that he be recorded as voting nay.

S 1019 **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, stated that **S 1019** seeks to allow the court to order service of civil summons by publication in a newspaper in certain circumstances. Additionally, a section of this bill seeks to set forth specific requirements for what should be in the order directing such service by publication. If the defendant's address is known, then a copy of the summons and complaint must be mailed to that address. The current statute requires the clerk to direct such mailing. The suggestion is to change that reference to a clerk to the order directing service so that the order will be directing the mailing as well.

DISCUSSION: **Senator Anthon** asked if the mailing was going to the post office with the assumption that they would try to locate the appropriate address for the summons and complaint to be delivered. **Mr. Spillman** responded that he did not believe that was the intention. He stated that he thought it referred to the manner in which the mailing would be accomplished. **Senator Burgoyne** suggested that the language was outdated. His opinion was that the intention of it was to mail it, pay the postage, and let the office receive it and send it through the postal system.

MOTION: **Senator Nye** moved to send **S 1019** to the floor with a **do pass** recommendation. **Senator Anthon** seconded the motion. The motion passed by **voice vote**.

S 1021 **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, explained that often after a defendant is found guilty, there will be remaining cash deposited with the Court as well as bail money. The current form of the statute does not allow those monies to be applied in situations where judgment has been withheld, even though it was based upon a finding of guilt. The recommended fix would be allowing application of remaining bail monies in situations where judgement has been withheld or the debts to the court are the result of infractions.

DISCUSSION: **Senator Thayne** asked if there was a difference between a cash deposit and a bail bondsman. **Mr. Spillman** answered that there was a difference. He explained that bail bondsmen do not actually place any money with the court, whereas a defendant, relative, or anyone else could post an actual cash amount to achieve the defendant's release. Bail bondsmen sign an assurity agreement that works like an insurance contract. He indicated that there could be some confusion in a situation where a defendant thinks they may be getting some money back but the Legislature has enacted a statute requires the defendant to satisfy his/her debts. **Chairman Lakey** reiterated that these are already monies that are owed to the courts, and in some cases the counties. An unintended consequence of this bill is when the money that is owed to the court is given back to the individual who has the judgment, and the county has to try to collect it back.

MOTION: **Senator Anthon** moved to send **S 1021** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**.

S 1022 **Jason Spillman**, Legal Counsel to the Administrative Office of the Courts, Idaho Supreme Court, stated that **S 1022** seeks to resolve conflict in penalties for not participating in jury service. There are two separate penalty provisions for jurors that are found in contempt for failing to participate in their jury service. The fix would be to repeal the older of the two sections and keep the most recent one.

MOTION: **Senator Nye** moved to send **S 1022** to the floor with a **do pass** recommendation. **Senator Lodge** seconded the motion. The motion passed by **voice vote**.

ADJOURNED: There being no further business at this time, **Chairman Lakey** adjourned the meeting at 2:40 p.m.

Senator Lakey
Chair

Sharon Pennington
Secretary